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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

21 JAN

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 12th November, 1974:—

I

BILL No. XLVII OF 1974

A Bill further to amend the Telegraph Wires (Unlawful Possession) Act, 1950

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Telegraph Wires (Unlawful Possession) Amendment Act, 1974.

74 of 1950.

Amendment of section 2.

2. In section 2 of the Telegraph Wires (Unlawful Possession) Act, 1950 (hereinafter referred to as the principal Act), for clause (*b*), the following clause shall be substituted, namely:—

'(*b*) "telegraph wire" means any copper wire the diameter of which, in millimetres, is—

(*i*) not less than 2·43 and not more than 2·53; or

(*ii*) not less than 2·77 and not more than 2·87; or

(*iii*) not less than 3·42 and not more than 3·52.'.

Amendment of section 5.

3. In section 5 of the principal Act,—

(*i*) for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both, and, in the absence of special and adequate reasons to be recorded

in the judgment of the Court, the term of such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees;";

(*ii*) in clause (b), for the words "to be mentioned in the judgment of the court, such imprisonment", the words "to be recorded in the judgment of the Court, the term of such imprisonment" shall be substituted.

Insertion of new sections 6A and 6B.

4. After section 6 of the principal Act, the following sections shall be inserted, namely:—

Powers of search and seizure.

"6A. (*1*) A police officer not below the rank of a sub-inspector may seize, or search any place and seize,—

(*i*) any telegraph wire;

(*ii*) any conveyance or animal used for the transport of such telegraph wire.

if a reasonable suspicion exists that any provision of this Act has been, or is being, or is about to be, contravened in respect of such telegraph wire.

(*2*) The provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures shall, so far as may be, apply to searches and seizures made under this section. 2 of 1974.

Confiscation of telegraph wires, conveyances, etc.

6B. Where any person has been convicted for the contravention of any of the provisions of this Act, the telegraph wires in relation to which the contravention has been made, and, any conveyance or animal used for the transport of such telegraph wires, shall be liable to confiscation by the Court unless the owner of the conveyance or animal proves that it was so used without the knowledge or connivance of the owner himself, his agent, if any, and the person in charge of the conveyance or animal and that each of them had taken all reasonable precautions against such use:

Provided that where any such conveyance or animal is used for the transport of goods or passengers for hire, the owner of the conveyance or animal shall be given an option to pay in lieu of the confiscation of the conveyance or animal, a fine, not exceeding the market price of the conveyance or animal on the date of seizure thereof or the value of the telegraph wires in relation to which the contravention has been made, whichever is less:

Provided further that any telegraph wires, so seized and confiscated shall be handed over by the Court to such authority as may be specified by the Central Government.".

Amendment of section 7.

5. In section 7 of the principal Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts consti-

tuting such offence made by a person who is a public servant within the meaning of section 21 of the Indian Penal Code.". 45 of 1860.

Amendment of section 8.

6. In sub-section (3) of section 8 of the principal Act, for the words "or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following", the words "or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Telegraph Wires (Unlawful Possession) Act, 1950, was enacted mainly with the object of simplifying the procedure for prosecution and conviction of persons accused of thefts of telegraph copper wires. In the light of the working of the Act, section 5 thereof was amended in 1962 to provide for a minimum punishment for the second and subsequent offences under the Act by the same set of persons. This amendment has not, however, achieved the desired deterrent effect. It is, therefore, proposed to prescribe minimum punishment even for the first offence under the Act, so as to curb more effectively the continuing thefts of telegraph copper wires in the country which have now assumed alarming proportions.

2. At present there is no provision in the Act for the seizure of stolen telegraph wires with the result that it is difficult to obtain possession of such telegraph wires in most of the cases. It is, therefore, proposed to include a new provision for the seizure by the police of the stolen telegraph wires and of the conveyance or animal used in such thefts, as well as for the confiscation of the stolen telegraph wires and of the conveyance or animal by court.

3. Under section 7 of the Act, only officers who are specially empowered in this behalf are competent to lodge complaints under the Act in a court. Such a procedure has proved cumbersome and entails constant revision of the list of such officers. It is, therefore, proposed to simplify the procedure by providing that a court shall take cognizance of any offence under the Act only on a report in writing by a public servant.

4. Opportunity is being taken to amend the definition of the expression "telegraph wire", so as to specify therein the metric system of units and to bring it in line with the new Indian Standard Specification for telegraph copper wire.

NEW DELHI; SHANKER DAYAL SHARMA.

The 2nd November, 1974.

II

BILL NO. XLVIII OF 1974

A Bill to extend the East Punjab Urban Rent Restriction Act, 1949, to the Union territory of Chandigarh.

BE it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. This Act may be called the East Punjab Urban Rent Restriction Act (Extension to Chandigarh) Act, 1974. Short title.

2. In this Act, 'the Act" means the East Punjab Urban Rent Restriction Act, 1949 as it extended to, and was in force in, certain areas in the pre-reorganisation State of Punjab (being areas which were administered by municipal committees, cantonment boards, town committees or notified area committees or areas notified as urban areas for the purposes of that Act) immediately before the 1st day of November, 1966. Definition.

East Punjab Act III of 1949.

Extension of East Punjab Act III of 1949 to Chandigarh.

3. Notwithstanding anything contained in any judgment, decree or order of any court, the Act shall, subject to the modifications specified in the Schedule, be in force in, and be deemed to have been in force with effect from the 4th day of November, 1972, in the Union territory of Chandigarh, as if the provisions of the Act as so modified had been included in and formed part of this section and as if this section had been in force at all material times.

Validation and saving.

4. (*1*) Notwithstanding anything contained in any judgment, decree or order of any court, anything done or any action taken (including any notification or direction issued or rents fixed or permission granted or order made) or purported to have been done or taken under the Act shall be deemed to be as valid and effective as if the provisions of this Act had been in force at all material times when such thing was done or such action was taken.

(*2*) Nothing in this Act shall render any person guilty of any offence for any contravention of the provisions of the Act which occurred before the commencement of this Act.

THE SCHEDULE

(*See* section 3)

MODIFICATIONS IN THE ACT

1. Throughout the Act, *for* "State Government" *substitute* "Central Government".

2. Section 1, *for* sub-sections (*2*) and (*3*), *substitute*—

"(*2*) It extends to all the urban areas in the Union territory of Chandigarh.".

3. Section 2,—

(*i*) *after* clause (*d*), *insert*—

'(*dd*) "notification" means a notification published in the Official Gazette;";

(*ii*) *for* clause (*j*), *substitute*—

'(*j*) "urban area" means the area comprised in Chandigarh as defined in clause (*d*) of section 2 of the Capital of Punjab (Development and Regulation) Act, 1952 and includes such other area comprised in the Union territory of Chandigarh as the Central Government may, having regard to the density of the population and the nature and extent of the accommodation available therein and other relevant factors, declare by notification to be urban for the purposes of this Act.'. Punjab Act XXVII 1959.

Power to make rules.

4. *For* section 20, *substitute*—

"20. (*1*) The Central Government may, by notification, make rules for the purpose of carrying out all or any of the provisions of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

STATEMENT OF OBJECTS AND REASONS

The East Punjab Urban Rent Restriction Act, 1949, which seeks to regulate rents of premises situated within urban areas and the eviction of tenants form such premises was passed by the Legislature of the composite State of Punjab. This Act came into force on 23rd March, 1949 and extended to areas administered by a municipal committee, a cantonment board, a town committee or a notified area committee. Under section 2(j) of the Act, the State Government was empowered to declare any other area to be an urban area for the purposes of the Act.

2. On the assumption that the relevant provisions of the Act continued to be in force in the territories comprised in the Union territory of Chandigarh by virtue of section 88 and other provisions of the Punjab Re-organisation Act, 1966, the Central Government issued a notification under section 2(j) thereof declaring Chandigarh Capital Project area to be an urban area for the purposes of the Act. The notification came into effect from the 4th November, 1972, on its publication in the Gazette of India. As a result of two writ petitions challenging the validity of the notification, the High Court of Punjab and Haryana has held that the East Punjab Act was not in actual operation in the territories now comprising the Union territory of Chandigarh on 1st November, 1966, that is, the date when this Union territory came into existence and consequently no action could have been taken under any provision of the Act in relation to Chandigarh. The Court has accordingly quashed the notification declaring Chandigarh Capital Project area as an urban area.

3. Consequent upon the application of the East Punjab Urban Rent Restriction Act, 1949, to Chandigarh Capital Project area, the tenants were given protection against exorbitant rents and arbitrary eviction. As a result of the judgment of the High Court, a large number of applications pending before the Rent Controllers and the appeals pending before the appellate authorities would become liable to be dismissed and this will cause serious problems. It is, therefore, considered necessary to extend the said Act to Chandigarh with retrospective effect and also to validate the action purported to have been taken under the Act.

4. The Bill seeks to achieve these objects.

NEW DELHI; OM MEHTA.

The 6th November, 1974.

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to extend, subject to certain modifications, the East Punjab Urban Rent Restriction Act, 1949 to the Union territory of Chandigarh with retrospective effect from the 4th day of November, 1972. Section 2(b) of the said Act provides for the appointment of Controllers, whilst section 15 provides for the conferment of the powers of the appellate authorities for the purposes of the Act on officers and authorities specified for the purpose in an order made under the section. In accordance with the practice which has been followed, the intention is to authorise the existing Judicial Officers to discharge the functions of Controllers. So far as the appellate powers are concerned, they can be conferred only on existing officers and authorities. Hence, no expenditure is likely to be incurred from the Consolidated Fund of India on account of the provisions of the Act which have been mentioned. However, incurring of some expenditure such as on stationery, forms and on contingencies cannot be ruled out. The quantum of such expenditure (which will be of a recurring nature) is not likely to exceed in any case, five thousand rupees per annum.

The Bill, if enacted, would not involve any non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Item 1 of the Schedule to the Bill seeks to modify the definition of "urban area" in clause (j) of section 2 of the East Punjab Urban Rent Restriction Act, 1949 to mean the area comprised in Chandigarh as defined in clause (d) of section 2 of the Capital of Punjab (Development and Regulation) Act, 1952 and to include such other area comprised in the Union territory of Chandigarh as may, having regard to the density of the population and the nature and extent of accommodation available therein and other relevant factors, be declared by the Central Government, by notification, to be "urban" for the purposes of the Act. The power to notify any other area as urban area is thus exercisable subject to the guidelines spelt out in the clause. Such a power is necessary to cover areas of the Union territory which may become urbanised in future. In the circumstances, the delegation is of a normal character.

2. Item 4 of the Schedule seeks to substitute a new section for section 20 of the East Punjab Urban Rent Restriction Act, 1949 relating to the power to make rules for the purposes of carrying out all or any of the provisions of the said Act. Apart from the change of the reference to the State Government by a reference to the Central Government, the new section provides for the laying of rules before each House of Parliament. The rules which may be made under the new section will pertain to matters of procedure or detail for which it is not practicable to make provision in the Act. The delegation of the power to make rules is, therefore, of a normal character.

B. N. BANERJEE,
Secretary-General.

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